

SUBCHAPTER V—INTERNATIONAL
FINANCIAL INSTITUTIONS

§ 7681. Report on expansion of debt relief to non-HIPC countries

(a) In general

Not later than 90 days after May 27, 2003, the Secretary of the Treasury shall submit to Congress a report on—

(1) the options and costs associated with the expansion of debt relief provided by the Enhanced HIPC Initiative to include poor countries that were not eligible for inclusion in the Enhanced HIPC Initiative;

(2) options for burden-sharing among donor countries and multilateral institutions of costs associated with the expansion of debt relief; and

(3) options, in addition to debt relief, to ensure debt sustainability in poor countries, particularly in cases when the poor country has suffered an external economic shock or a natural disaster.

(b) Specific options to be considered

Among the options for the expansion of debt relief provided by the Enhanced HIPC Initiative, consideration should be given to making eligible for that relief poor countries for which outstanding public and publicly guaranteed debt requires annual payments in excess of 10 percent or, in the case of a country suffering a public health crisis (as defined in section 262p-8(e) of this title), not more than 5 percent, of the amount of the annual current revenues received by the country from internal resources.

(c) Enhanced HIPC Initiative defined

In this section, the term “Enhanced HIPC Initiative” means the multilateral debt initiative for heavily indebted poor countries presented in the Report of G-7 Finance Ministers on the Cologne Debt Initiative to the Cologne Economic Summit, Cologne, June 18–20, 1999.

(Pub. L. 108–25, title V, § 502, May 27, 2003, 117 Stat. 749.)

§ 7682. Authorization of appropriations

(a) In general

There are authorized to be appropriated to the President such sums as may be necessary for the fiscal year 2004 and each fiscal year thereafter to carry out section 262p-8 of this title.

(b) Availability of funds

Amounts appropriated pursuant to subsection (a) are authorized to remain available until expended.

(Pub. L. 108–25, title V, § 503, May 27, 2003, 117 Stat. 749.)

CHAPTER 84—MILLENNIUM CHALLENGE

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§ 7701. Purposes

The purposes of this chapter are—

(1) to provide United States assistance for global development through the Millennium Challenge Corporation, as described in section 7703 of this title; and

(2) to provide such assistance in a manner that promotes economic growth and the elimination of extreme poverty and strengthens good governance, economic freedom, and investments in people.

(Pub. L. 108–199, div. D, title VI, § 602, Jan. 23, 2004, 118 Stat. 211.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this title”, meaning title VI of Pub. L. 108–199, div. D, Jan. 23, 2004, 118 Stat. 211, which is classified generally to this chapter. For complete classification of this title to the Code, see Short Title note set out below and Tables.

SHORT TITLE

Pub. L. 108–199, div. D, title VI, § 601, Jan. 23, 2004, 118 Stat. 211, provided that: “This title [enacting this chapter and amending section 5313 of Title 5, Government Organizations and Employees, and section 9101 of Title 31, Money and Finance] may be cited as the ‘Millennium Challenge Act of 2003’.”

§ 7702. Definitions

In this chapter:

(1) Appropriate congressional committees

The term “appropriate congressional committees” means—

(A) the Committee on International Relations and the Committee on Appropriations of the House of Representatives; and

(B) the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(2) Board

The term “Board” means the Board of Directors of the Corporation established pursuant to section 7703(c) of this title.

(3) Candidate country

The term “candidate country” means a country that meets the requirements of section 7705 of this title.

(4) Chief Executive Officer

The term “Chief Executive Officer” means the chief executive officer of the Corporation appointed pursuant to section 7703(b) of this title.

(5) Compact

The term “Compact” means a Millennium Challenge Compact described in section 7708 of this title.

(6) Corporation

The term “Corporation” means the Millennium Challenge Corporation established by section 7703(a) of this title.

(7) Eligible country

The term “eligible country” means a candidate country that is determined, under section 7706 of this title, to be an eligible country to receive assistance under section 7704 of this title.

(8) Investments in the people

The term “investments in the people” means government policies or programs of an eligible country that promote the health, education, and other factors which contribute to the well-being and productivity of their people, such as decent, affordable housing for all.

(Pub. L. 108–199, div. D, title VI, §603, Jan. 23, 2004, 118 Stat. 211; Pub. L. 108–447, div. D, title V, §534(q), Dec. 8, 2004, 118 Stat. 3008.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this title”, meaning title VI of Pub. L. 108–199, div. D, Jan. 23, 2004, 118 Stat. 211, which is classified generally to this chapter. For complete classification of this title to the Code, see Short Title note set out under section 7701 of this title and Tables.

AMENDMENTS

2004—Par. (8). Pub. L. 108–447 added par. (8).

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 7703. Establishment and management of the Millennium Challenge Corporation**(a) Establishment**

There is established in the executive branch a corporation to be known as the “Millennium Challenge Corporation” that shall be responsible for carrying out this chapter. The Corporation shall be a government corporation, as defined in section 103 of title 5.

(b) Chief Executive Officer**(1) In general**

There shall be in the Corporation a Chief Executive Officer who shall be responsible for the management of the Corporation.

(2) Appointment**(A) In general**

Except as provided in subparagraph (B), the Chief Executive Officer shall be appointed by the President, by and with the advice and consent of the Senate.

(B) Interim CEO

The members of the Board of Directors described in subsection (c)(3)(A) may designate by unanimous consent in writing an individ-

ual who is an officer within any Federal department or agency (and who has been appointed to such position by the President, by and with the advice and consent of the Senate) to carry out the duties described in this subsection until the Chief Executive Officer is appointed pursuant to subparagraph (A).

(3) Relationship to Board

The Chief Executive Officer shall report to and be under the direct authority of the Board.

(4) Compensation and rank**(A) In general**

The Chief Executive Officer shall be compensated at the rate provided for level II of the Executive Schedule under section 5313 of title 5 and shall have the equivalent rank of Deputy Secretary.

(B) Omitted**(5) Authorities and duties**

The Chief Executive Officer shall be responsible for the management of the Corporation and shall exercise the powers and discharge the duties of the Corporation.

(6) Authority to appoint officers

In consultation and with approval of the Board, the Chief Executive Officer shall appoint all officers of the Corporation.

(c) Board of Directors**(1) Establishment**

There shall be in the Corporation a Board of Directors.

(2) Duties

The Board shall perform the functions specified to be carried out by the Board in this chapter and may prescribe, amend, and repeal bylaws, rules, regulations, and procedures governing the manner in which the business of the Corporation may be conducted and in which the powers granted to it by law may be exercised.

(3) Membership

The Board shall consist of—

(A) the Secretary of State, the Secretary of the Treasury, the Administrator of the United States Agency for International Development, the Chief Executive Officer of the Corporation, and the United States Trade Representative; and

(B) four other individuals with relevant international experience who shall be appointed by the President, by and with the advice and consent of the Senate, of which—

(i) one individual should be appointed from among a list of individuals submitted by the majority leader of the House of Representatives;

(ii) one individual should be appointed from among a list of individuals submitted by the minority leader of the House of Representatives;

(iii) one individual should be appointed from among a list of individuals submitted by the majority leader of the Senate; and

(iv) one individual should be appointed from among a list of individuals submitted by the minority leader of the Senate.

(4) Terms**(A) Officers of the Federal Government**

Each member of the Board described in paragraph (3)(A) shall serve for a term that is concurrent with the term of service of the individual's position as an officer within the other Federal department or agency.

(B) Other members

Each member of the Board described in paragraph (3)(B) shall be appointed for a term of 3 years and may be reappointed for a term of an additional 2 years.

(C) Vacancies

A vacancy in the Board shall be filled in the manner in which the original appointment was made.

(5) Chairperson

There shall be a Chairperson of the Board. The Secretary of State shall serve as the Chairperson.

(6) Quorum

A majority of the members of the Board shall constitute a quorum, which, except with respect to a meeting of the Board during the 135-day period beginning on January 23, 2004, shall include at least one member of the Board described in paragraph (3)(B).

(7) Meetings

The Board shall meet at the call of the Chairperson.

(8) Compensation**(A) Officers of the Federal Government****(i) In general**

A member of the Board described in paragraph (3)(A) may not receive additional pay, allowances, or benefits by reason of the member's service on the Board.

(ii) Travel expenses

Each such member of the Board shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5.

(B) Other members**(i) In general**

Except as provided in clause (ii), a member of the Board described in paragraph (3)(B)—

(I) shall be paid compensation out of funds made available for the purposes of this chapter at the daily equivalent of the highest rate payable under section 5332 of title 5 for each day (including travel time) during which the member is engaged in the actual performance of duties as a member of the Board; and

(II) while away from the member's home or regular place of business on necessary travel in the actual performance of duties as a member of the Board, shall be paid per diem, travel, and transportation expenses in the same manner as is provided under subchapter I of chapter 57 of title 5.

(ii) Limitation

A member of the Board may not be paid compensation under clause (i)(II) for more than 90 days in any calendar year.

(Pub. L. 108–199, div. D, title VI, § 604, Jan. 23, 2004, 118 Stat. 212.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (c)(2), (8)(B)(i)(I), was in the original “this title”, meaning title VI of Pub. L. 108–199, div. D, Jan. 23, 2004, 118 Stat. 211, which is classified generally to this chapter. For complete classification of this title to the Code, see Short Title note set out under section 7701 of this title and Tables.

CODIFICATION

Section is comprised of section 604 of div. D of Pub. L. 108–199. Subsec. (b)(4)(B) of section 604 of div. D of Pub. L. 108–199 amended section 5313 of Title 5, Government Organization and Employees.

§ 7704. Authorization of assistance**(a) Assistance**

Notwithstanding any other provision of law (other than a provision of this chapter), the Board, acting through the Chief Executive Officer, is authorized to provide assistance under this section for each country that enters into a Millennium Challenge Compact with the United States pursuant to section 7708 of this title to support policies and programs that advance the progress of the country in achieving lasting economic growth and poverty reduction and are in furtherance of the purposes of this chapter.

(b) Form of assistance

Assistance under this section may be provided in the form of grants, cooperative agreements, or contracts to or with eligible entities described in subsection (c). Assistance under this section may not be provided in the form of loans.

(c) Eligible entities

An eligible entity referred to in subsection (b) is—

- (1) the national government of the eligible country;
- (2) regional or local governmental units of the country; or
- (3) a nongovernmental organization or a private entity.

(d) Application

The Chief Executive Officer, in consultation with the Board and working with eligible countries selected by the Board for negotiation of Compacts, should develop and recommend procedures for considering solicited and unsolicited proposals in Compacts prior to an approval of the Compacts by the Board.

(e) Limitations**(1) Prohibition on military assistance and training**

Assistance under this section may not include military assistance or military training for a country.

(2) Prohibition on assistance relating to United States job loss or production displacement

Assistance under this section may not be provided for any project that is likely to cause

a substantial loss of United States jobs or a substantial displacement of United States production.

(3) Prohibition on assistance relating to environmental, health, or safety hazards

Assistance under this section may not be provided for any project that is likely to cause a significant environmental, health, or safety hazard.

(4) Prohibition on use of funds for abortions and involuntary sterilizations

The prohibitions on use of funds contained in paragraphs (1) through (3) of section 104(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(f)(1)–(3)) shall apply to funds made available to carry out this section to the same extent and in the same manner as such prohibitions apply to funds made available to carry out part I of such Act [22 U.S.C. 2151 et seq.]. The prohibition on use of funds contained in any provision of law comparable to the eleventh and fourteenth provisos under the heading “Child Survival and Health Programs Fund” of division E of Public Law 108–7 (117 Stat. 162) shall apply to funds made available to carry out this section for fiscal year 2004.

(f) Coordination

The provision of assistance under this section shall be coordinated with other United States foreign assistance programs.

(Pub. L. 108–199, div. D, title VI, §605, Jan. 23, 2004, 118 Stat. 214.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original “this title”, meaning title VI of Pub. L. 108–199, div. D, Jan. 23, 2004, 118 Stat. 211, which is classified generally to this chapter. For complete classification of this title to the Code, see Short Title note set out under section 7701 of this title and Tables.

The Foreign Assistance Act of 1961, referred to in subsec. (e)(4), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424. Part I of the Act is classified generally to subchapter I (§2151 et seq.) of chapter 32 of this title. For provisions deeming references to subchapter I to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of chapter 32, see section 202(b) of Pub. L. 92–226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa–5 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

The provisos of Public Law 108–7, referred to in subsec. (e)(4), are contained in Pub. L. 108–7, div. E, title II, Feb. 20, 2003, 117 Stat. 162, and are not classified to the Code.

§ 7705. Candidate countries

(a) Low income countries

(1) Fiscal year 2004

A country shall be a candidate country for purposes of eligibility for assistance for fiscal year 2004 if—

(A) the country is eligible for assistance from the International Development Association, and the per capita income of the country is equal to or less than the historical ceiling of the International Development Association for that year, as defined by the International Bank for Reconstruction and Development; and

(B) subject to paragraph (3), the country is not ineligible to receive United States economic assistance under part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.] by reason of the application of any provision of the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.] or any other provision of law.

(2) Fiscal year 2005 and subsequent fiscal years

A country shall be a candidate country for purposes of eligibility for assistance for fiscal year 2005 or a subsequent fiscal year if—

(A) the per capita income of the country is equal to or less than the historical ceiling of the International Development Association for the fiscal year involved, as defined by the International Bank for Reconstruction and Development; and

(B) the country meets the requirements of paragraph (1)(B).

(3) Rule of construction

For the purposes of determining whether a country is eligible for receiving assistance under section 7704 of this title pursuant to paragraph (1)(B), the exercise by the President, the Secretary of State, or any other officer or employee of the United States of any waiver or suspension of any provision of law referred to in such paragraph, and notification to the appropriate congressional committees in accordance with such provision of law, shall be construed as satisfying the requirement of such paragraph.

(b) Lower middle income countries

(1) In general

In addition to countries described in subsection (a), a country shall be a candidate country for purposes of eligibility for assistance for fiscal year 2006 or a subsequent fiscal year if the country—

(A) is classified as a lower middle income country in the then most recent edition of the World Development Report for Reconstruction and Development published by the International Bank for Reconstruction and Development and has an income greater than the historical ceiling for International Development Association eligibility for the fiscal year involved; and

(B) meets the requirements of subsection (a)(1)(B).

(2) Limitation

The total amount of assistance provided to countries described in paragraph (1) for fiscal year 2006 or any subsequent fiscal year may not exceed 25 percent of the total amount of assistance provided to all countries under section 7704 of this title for fiscal year 2006 or the subsequent fiscal year, as the case may be.

(c) Identification by the Board

The Board shall identify whether a country is a candidate country for purposes of this section.

(Pub. L. 108–199, div. D, title VI, §606, Jan. 23, 2004, 118 Stat. 215.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (a)(1)(B), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424,

as amended, which is classified principally to chapter 32 (§2151 et seq.) of this title. Part I of the Act is classified generally to subchapter I (§2151 et seq.) of chapter 32 of this title. For provisions deeming references to subchapter I to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of chapter 32, see section 202(b) of Pub. L. 92-226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa-5 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

§ 7706. Eligible countries

(a) Determination by the Board

The Board shall determine whether a candidate country is an eligible country for purposes of this section. Such determination shall be based, to the maximum extent possible, upon objective and quantifiable indicators of a country's demonstrated commitment to the criteria in subsection (b), and shall, where appropriate, take into account and assess the role of women and girls.

(b) Criteria

A candidate country should be considered to be an eligible country for purposes of this section if the Board determines that the country has demonstrated a commitment to—

(1) just and democratic governance, including a demonstrated commitment to—

(A) promote political pluralism, equality, and the rule of law;

(B) respect human and civil rights, including the rights of people with disabilities;

(C) protect private property rights;

(D) encourage transparency and accountability of government; and

(E) combat corruption;

(2) economic freedom, including a demonstrated commitment to economic policies that—

(A) encourage citizens and firms to participate in global trade and international capital markets;

(B) promote private sector growth;

(C) strengthen market forces in the economy; and

(D) respect worker rights, including the right to form labor unions; and

(3) investments in the people of such country, particularly women and children, including programs that—

(A) promote broad-based primary education;

(B) strengthen and build capacity to provide quality public health and reduce child mortality; and

(C) promote the protection of biodiversity and the transparent and sustainable management and use of natural resources.

(c) Selection by the Board

(1) In general

At the time the Board determines eligible countries under this section for a fiscal year, the Board shall select those eligible countries with respect to which the United States will initially seek to enter into a Millennium Challenge Compact pursuant to section 7708 of this title.

(2) Factors

In selecting eligible countries under paragraph (1), the Board shall consider the following factors:

(A) The extent to which the country clearly meets or exceeds the eligibility criteria.

(B) The opportunity to reduce poverty and generate economic growth in the country.

(C) The availability of amounts to carry out this chapter.

(d) Establishment of criteria and methodology

The criteria and methodology submitted by the Board to Congress and published in the Federal Register under section 7707(b)(2) of this title with respect to a fiscal year shall remain fixed for purposes of eligibility determinations for such year.

(e) Annual modification of criteria and methodology

As appropriate, the Board, acting through the Chief Executive Officer, shall review the eligibility criteria and methodology and modify such criteria and methodology in subsequent years consistent with section 7707(b) of this title.

(Pub. L. 108-199, div. D, title VI, §607, Jan. 23, 2004, 118 Stat. 216; Pub. L. 110-161, div. J, title VI, §699I(a), Dec. 26, 2007, 121 Stat. 2372.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c)(2)(C), was in the original “this title”, meaning title VI of Pub. L. 108-199, div. D, Jan. 23, 2004, 118 Stat. 211, which is classified generally to this chapter. For complete classification of this title to the Code, see Short Title note set out under section 7701 of this title and Tables.

AMENDMENTS

2007—Subsec. (b)(2)(B). Pub. L. 110-161, §699I(a)(1), struck out “and the sustainable management of natural resources” after “growth”.

Subsec. (b)(3)(C). Pub. L. 110-161, §699I(a)(2), added subpar. (C).

§ 7707. Congressional and public notification of candidate countries, eligibility criteria, and eligible countries

(a) Identification of candidate countries

Not later than 90 days prior to the date on which the Board determines eligible countries under section 7706 of this title for a fiscal year, the Chief Executive Officer—

(1) shall prepare and submit to the appropriate congressional committees a report that contains a list of all candidate countries identified under section 7705 of this title, and all countries that would be candidate countries if the countries met the requirement contained in section 7705(a)(1)(B) of this title, for the fiscal year; and

(2) shall publish in the Federal Register the information contained in the report described in paragraph (1).

(b) Identification of eligibility criteria and methodology

Not later than 60 days prior to the date on which the Board determines eligible countries under section 7706 of this title for a fiscal year, the Chief Executive Officer—

(1) shall prepare and submit to the appropriate congressional committees a report that

contains a list of the criteria and methodology described in subsections (a) and (b) of section 7706 of this title that will be used to determine eligibility for each candidate country identified under subsection (a);

(2) shall publish in the Federal Register the information contained in the report described in paragraph (1); and

(3) may conduct one or more public hearings on the eligibility criteria and methodology.

(c) Public comment and congressional consultation

(1) Public comment

The Chief Executive Officer shall, for the 30-day period beginning on the date of publication in the Federal Register of the information contained in the report described in subsection (b)(1), accept public comment and consider such comment for purposes of determining eligible countries under section 7706 of this title.

(2) Congressional consultation

The Chief Executive Officer shall consult with the appropriate congressional committees on the extent to which the candidate countries meet the criteria described in section 7706(b) of this title.

(d) Identification of eligible countries

Not later than 5 days after the date on which the Board determines eligible countries under section 7706 of this title for a fiscal year, the Chief Executive Officer—

(1) shall prepare and submit to the appropriate congressional committees a report that contains a list of all such eligible countries, an identification of those countries on such list with respect to which the Board will seek to enter into a Compact under section 7708 of this title, and a justification for such eligibility determination and selection for Compact negotiation; and

(2) shall publish in the Federal Register the information contained in the report described in paragraph (1).

(Pub. L. 108–199, div. D, title VI, § 608, Jan. 23, 2004, 118 Stat. 217.)

§ 7708. Millennium Challenge Compact

(a) Compact

The Board, acting through the Chief Executive Officer of the Corporation, may provide assistance for an eligible country only if the country enters into an agreement with the United States, to be known as a “Millennium Challenge Compact”, that establishes a multi-year plan for achieving shared development objectives in furtherance of the purposes of this chapter.

(b) Elements

(1) In general

The Compact should take into account the national development strategy of the eligible country and shall contain—

(A) the specific objectives that the country and the United States expect to achieve during the term of the Compact;

(B) the responsibilities of the country and the United States in the achievement of such objectives;

(C) regular benchmarks to measure, where appropriate, progress toward achieving such objectives;

(D) an identification of the intended beneficiaries, disaggregated by income level, gender, and age, to the maximum extent practicable;

(E) a multi-year financial plan, including the estimated amount of contributions by the Corporation and the country and proposed mechanisms to implement the plan and provide oversight, that describes how the requirements of subparagraphs (A) through (D) will be met, including identifying the role of civil society in the achievement of such requirements;

(F) where appropriate, a description of the current and potential participation of other donors in the achievement of such objectives;

(G) a plan to ensure appropriate fiscal accountability for the use of assistance provided under section 7704 of this title;

(H) where appropriate, a process or processes for consideration of solicited proposals under the Compact as well as a process for consideration of unsolicited proposals by the Corporation and national, regional, or local units of government;

(I) a requirement that open, fair, and competitive procedures are used in a transparent manner in the administration of grants or cooperative agreements or the procurement of goods and services for the accomplishment of objectives under the Compact;

(J) the strategy of the eligible country to sustain progress made toward achieving such objectives after expiration of the Compact; and

(K) a description of the role of the United States Agency for International Development in any design, implementation, and monitoring of programs and activities funded under the Compact.

(2) Lower middle income countries

In addition to the elements described in subparagraphs (A) through (K) of paragraph (1), with respect to a lower middle income country described in section 7705(b) of this title, the Compact shall identify a contribution, as appropriate, from the country relative to its national budget, taking into account the prevailing economic conditions, toward meeting the objectives of the Compact. Any such contribution should be in addition to government spending allocated for such purposes in the country's budget for the year immediately preceding the establishment of the Compact and should continue for the duration of the Compact.

(3) Definition

In this subsection, the term “national development strategy” means any strategy to achieve market-driven economic growth and eliminate extreme poverty that has been developed by the government of the country in consultation with a wide variety of civic participation, including nongovernmental organizations, private and voluntary organizations, academia, women's and student organizations,

local trade and labor unions, and the business community.

(c) Additional provision relating to prohibition on taxation

In addition to the elements described in subsection (c), each Compact shall contain a provision that states that assistance provided by the United States under the Compact shall be exempt from taxation by the government of the eligible country.

(d) Local input

In entering into a Compact, the United States shall seek to ensure that the government of an eligible country—

(1) takes into account the local-level perspectives of the rural and urban poor, including women, in the eligible country; and

(2) consults with private and voluntary organizations, the business community, and other donors in the eligible country.

(e) Consultation

During any discussions with a country for the purpose of entering into a Compact with the country, officials of the Corporation participating in such discussions shall, at a minimum, consult with appropriate officials of the United States Agency for International Development, particularly with those officials responsible for the appropriate region or country on development issues related to the Compact.

(f) Coordination with other donors

To the maximum extent feasible, activities undertaken to achieve the objectives of the Compact shall be undertaken in coordination with the assistance activities of other donors.

(g) Assistance for development of compact

Notwithstanding subsection (a), the Chief Executive Officer may enter into contracts or make grants for any eligible country for the purpose of facilitating the development and implementation of the Compact between the United States and the country.

(h) Requirement for approval by the Board

Each Compact shall be approved by the Board before the United States enters into the Compact.

(i) Increase or extension of assistance under a Compact

Not later than 15 days after making a determination to increase or extend assistance under a Compact with an eligible country, the Board, acting through the Chief Executive Officer—

(1) shall prepare and transmit to the appropriate congressional committees a written report and justification that contains a detailed summary of the proposed increase in or extension of assistance under the Compact and a copy of the full text of the amendment to the Compact; and

(2) shall publish a detailed summary, full text, and justification of the proposed increase in or extension of assistance under the Compact in the Federal Register and on the Internet website of the Corporation.

(j) Duration of Compact

The duration of a Compact shall not exceed 5 years.

(k) Subsequent Compacts

An eligible country and the United States may enter into and have in effect only one Compact at any given time under this section. An eligible country and the United States may enter into one or more subsequent Compacts in accordance with the requirements of this chapter after the expiration of the existing Compact.

(Pub. L. 108–199, div. D, title VI, §609, Jan. 23, 2004, 118 Stat. 218.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (k), was in the original “this title”, meaning title VI of Pub. L. 108–199, div. D, Jan. 23, 2004, 118 Stat. 211, which is classified generally to this chapter. For complete classification of this title to the Code, see Short Title note set out under section 7701 of this title and Tables.

§ 7709. Congressional and public notification of Compact

(a) Congressional consultation prior to Compact negotiations

Not later than 15 days prior to the start of negotiations of a Compact with an eligible country, the Board, acting through the Chief Executive Officer—

(1) shall consult with the appropriate congressional committees with respect to the proposed Compact negotiation; and

(2) shall identify the objectives and mechanisms to be used for the negotiation of the Compact.

(b) Congressional and public notification after entering into a Compact

Not later than 10 days after entering into a Compact with an eligible country, the Board, acting through the Chief Executive Officer—

(1) shall provide notification of the Compact to the appropriate congressional committees, including a detailed summary of the Compact and a copy of the text of the Compact; and

(2) shall publish such detailed summary and the text of the Compact in the Federal Register and on the Internet website of the Corporation.

(Pub. L. 108–199, div. D, title VI, §610, Jan. 23, 2004, 118 Stat. 220.)

§ 7710. Suspension and termination of assistance

(a) Suspension and termination of assistance

After consultation with the Board, the Chief Executive Officer may suspend or terminate assistance in whole or in part for a country or entity under section 7704 of this title if the Chief Executive Officer determines that—

(1) the country or entity is engaged in activities which are contrary to the national security interests of the United States;

(2) the country or entity has engaged in a pattern of actions inconsistent with the criteria used to determine the eligibility of the country or entity, as the case may be; or

(3) the country or entity has failed to adhere to its responsibilities under the Compact.

(b) Reinstatement

The Chief Executive Officer may reinstate assistance for a country or entity under section

7704 of this title only if the Chief Executive Officer determines that the country or entity has demonstrated a commitment to correcting each condition for which assistance was suspended or terminated under subsection (a).

(c) Congressional notification

Not later than 3 days after the date on which the Chief Executive Officer suspends or terminates assistance under subsection (a) for a country or entity, or reinstates assistance under subsection (b) for a country or entity, the Chief Executive Officer shall submit to the appropriate congressional committees a report that contains the determination of the Chief Executive Officer under subsection (a) or subsection (b), as the case may be.

(d) Rule of construction

The authority to suspend or terminate assistance under this section includes the authority to suspend or terminate obligations and sub-obligations.

(Pub. L. 108–199, div. D, title VI, §611, Jan. 23, 2004, 118 Stat. 220.)

§ 7711. Disclosure

(a) Requirement for disclosure

The Corporation shall make available to the public on at least a quarterly basis, the following information:

(1) For assistance provided under section 7704 of this title—

(A) the name of each entity to which assistance is provided;

(B) the amount of assistance provided to the entity; and

(C) a description of the program or project, including—

(i) a description of whether the program or project was solicited or unsolicited; and

(ii) a detailed description of the objectives and measures for results of the program or project.

(2) For funds allocated or transferred under section 7718(b) of this title—

(A) the name of each United States Government agency to which such funds are transferred or allocated;

(B) the amount of funds transferred or allocated to such agency; and

(C) a description of the program or project to be carried out by such agency with such funds.

(b) Dissemination

The information required to be disclosed under subsection (a) shall be made available to the public by means of publication in the Federal Register and on the Internet website of the Corporation, as well as by any other methods that the Board determines appropriate.

(Pub. L. 108–199, div. D, title VI, §612, Jan. 23, 2004, 118 Stat. 221.)

§ 7712. Annual report

(a) Report

Not later than March 31, 2005, and each March 31 thereafter, the President shall submit to Con-

gress a report on the assistance provided under section 7704 of this title during the prior fiscal year.

(b) Contents

The report shall include the following:

(1) The amount of obligations and expenditures for assistance provided to each eligible country during the prior fiscal year.

(2) For each eligible country, an assessment of—

(A) the progress made during each year by the country toward achieving the objectives set out in the Compact entered into by the country; and

(B) the extent to which assistance provided under section 7704 of this title has been effective in helping the country to achieve such objectives.

(3) A description of the coordination of assistance provided under section 7704 of this title with other United States foreign assistance and related trade policies.

(4) A description of the coordination of assistance provided under section 7704 of this title with assistance provided by other donor countries.

(5) Any other information the President considers relevant with respect to assistance provided under section 7704 of this title.

(Pub. L. 108–199, div. D, title VI, §613, Jan. 23, 2004, 118 Stat. 221.)

ASSIGNMENT OF FUNCTION TO SUBMIT A REPORT RELATING TO MILLENNIUM CHALLENGE CORPORATION ACTIVITIES

Memorandum of President of the United States, Mar. 31, 2005, 70 F.R. 17195, provided:

Memorandum for the Secretary of State

Consistent with section 301 of title 3, United States Code, the function of the President under section 613 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004 (Division D of Public Law 108–199) [22 U.S.C. 7712] is assigned to the Secretary of State.

The Secretary of State shall perform such function in a manner consistent with the President's constitutional authority to withhold information the disclosure of which could impair foreign relations, national security, the deliberative processes of the Executive, or the performance of the Executive's constitutional duties. Heads of departments and agencies shall, to the extent permitted by law, furnish to the Secretary information the Secretary requests to perform such function, in the format and on the schedule specified by the Secretary.

Any reference in this memorandum to the provision of any Act shall be deemed to include references to any hereafter-enacted provision of law that is the same or substantially the same as such provision.

You are authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

§ 7713. Powers of the Corporation; related provisions

(a) Powers

The Corporation—

(1) shall have perpetual succession unless dissolved by a law enacted after January 23, 2004;

(2) may adopt, alter, and use a seal, which shall be judicially noticed;

(3) may make and perform such contracts, grants, and other agreements with any person

or government however designated and wherever situated, as may be necessary for carrying out the functions of the Corporation;

(4) may determine and prescribe the manner in which its obligations shall be incurred and its expenses allowed and paid, including expenses for representation;

(5) may lease, purchase, or otherwise acquire, improve, and use such real property wherever situated, as may be necessary for carrying out the functions of the Corporation;

(6) may accept cash gifts or donations of services or of property (real, personal, or mixed), tangible or intangible, for the purpose of carrying out the provisions of this chapter;

(7) may use the United States mails in the same manner and on the same conditions as the executive departments;

(8) may contract with individuals for personal services, who shall not be considered Federal employees for any provision of law administered by the Office of Personnel Management;

(9) may hire or obtain passenger motor vehicles; and

(10) shall have such other powers as may be necessary and incident to carrying out this chapter.

(b) Principal office

The Corporation shall maintain its principal office in the metropolitan area of Washington, District of Columbia.

(c) Positions with foreign governments

When approved by the Chief Executive Officer, for purposes of implementing a Compact, employees of the Corporation (including individuals detailed to the Corporation) may accept and hold offices or positions to which no compensation is attached with governments or governmental agencies of foreign countries or with international organizations.

(d) Other authorities

Except to the extent inconsistent with the provisions of this chapter, the administrative authorities contained in the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a et seq.) and the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) shall apply to the implementation of this chapter to the same extent and in the same manner as such authorities apply to the implementation of those Acts.

(e) Applicability of Government Corporation Control Act

(1) In general

The Corporation shall be subject to chapter 91 of subtitle VI of title 31, except that the Corporation shall not be authorized to issue obligations or offer obligations to the public.

(2) Omitted

(f) Inspector General

(1) In general

The Inspector General of the United States Agency for International Development shall serve as Inspector General of the Corporation, and, in acting in such capacity, may conduct reviews, investigations, and inspections of all aspects of the operations and activities of the Corporation.

(2) Authority of the Board

In carrying out the responsibilities under this subsection, the Inspector General shall report to and be under the general supervision of the Board.

(3) Reimbursement and authorization of services

(A) Reimbursement

The Corporation shall reimburse the United States Agency for International Development for all expenses incurred by the Inspector General in connection with the Inspector General's responsibilities under this subsection.

(B) Authorization for services

Of the amount authorized to be appropriated under section 7718(a) of this title for a fiscal year, up to \$5,000,000 is authorized to be made available to the Inspector General of the United States Agency for International Development to conduct reviews, investigations, and inspections of operations and activities of the Corporation.

(g) Special assistance

(1) In general

The Chief Executive Officer is authorized to contract with any nongovernmental organization (including a university, independent foundation, or other organization) in the United States or in a candidate country, and, where appropriate, directly with a governmental agency of any such country, that is undertaking research aimed at improving data related to eligibility criteria under this chapter with respect to the country.

(2) Funding

Of the amount authorized to be appropriated under section 7718(a) of this title for a fiscal year, up to \$5,000,000 is authorized to be made available to carry out paragraph (1).

(Pub. L. 108-199, div. D, title VI, §614, Jan. 23, 2004, 118 Stat. 222.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(6), (10), (d), and (g)(1), was in the original "this title", meaning title VI of Pub. L. 108-199, div. D, Jan. 23, 2004, 118 Stat. 211, which is classified generally to this chapter. For complete classification of this title to the Code, see Short Title note set out under section 7701 of this title and Tables.

The State Department Basic Authorities Act of 1956, referred to in subsec. (d), is act Aug. 1, 1956, ch. 841, 70 Stat. 890, which enacted sections 2651a, 2669, 2670, 2671, 2672, 2673 to 2679a, 2680, 2680a, 2684, 2687 to 2690, 2692, 2695, 2696 to 2715, and 2715b to 2734 of this title and chapters 53 (§4301 et seq.), 53A (§4341 et seq.), and 53B (§4351 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2651 of this title and Tables.

The Foreign Assistance Act of 1961, referred to in subsec. (d), is Pub. L. 87-195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to chapter 32 (§2151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

CODIFICATION

Section is comprised of section 614 of div. D of Pub. L. 108-199. Subsec. (e)(2) of section 614 of div. D of Pub.

L. 108–199 amended section 9101 of Title 31, Money and Finance.

§ 7714. Coordination with United States Agency for International Development

(a) Requirement for coordination

The Chief Executive Officer shall consult with the Administrator of the United States Agency for International Development in order to coordinate the activities of the Corporation with the activities of the Agency.

(b) USAID programs

The Administrator of the United States Agency for International Development shall seek to ensure that appropriate programs of the Agency play a primary role in preparing candidate countries to become eligible countries.

(Pub. L. 108–199, div. D, title VI, § 615, Jan. 23, 2004, 118 Stat. 224.)

§ 7715. Assistance to certain candidate countries

(a) Authorization

The Board, acting through the Chief Executive Officer, is authorized to provide assistance to a candidate country described in subsection (b) for the purpose of assisting such country to become an eligible country.

(b) Candidate country described

A candidate country referred to in subsection (a) is a candidate country that—

(1) satisfies the requirements contained in subsection (a) or (b) of section 7705 of this title; and

(2) demonstrates a significant commitment to meet the requirements of section 7706(b) of this title but fails to meet such requirements (including by reason of the absence or unreliability of data).

(c) Administration

Assistance under this section may be provided through the United States Agency for International Development.

(d) Funding

Not more than 10 percent of the amount appropriated pursuant to the authorization of appropriations under section 7718(a) of this title for fiscal year 2004 is authorized to be made available to carry out this section.

(Pub. L. 108–199, div. D, title VI, § 616, Jan. 23, 2004, 118 Stat. 224; Pub. L. 109–13, div. A, title II, § 2109, May 11, 2005, 119 Stat. 268.)

AMENDMENTS

2005—Subsec. (b)(1). Pub. L. 109–13 substituted “subsection (a) or (b) of section 7705” for “subparagraphs (A) and (B) of section 7705(a)(1)”.

§ 7716. General personnel authorities

(a) Detail of personnel

Upon request of the Chief Executive Officer, the head of an agency may detail any employee of such agency to the Corporation on a reimbursable basis. Any employee so detailed remains, for the purpose of preserving such employee’s allowances, privileges, rights, seniority, and other benefits, an employee of the agency from which detailed.

(b) Reemployment rights

(1) In general

An employee of an agency who is serving under a career or career conditional appointment (or the equivalent), and who, with the consent of the head of such agency, transfers to the Corporation, is entitled to be reemployed in such employee’s former position or a position of like seniority, status, and pay in such agency, if such employee—

(A) is separated from the Corporation for any reason, other than misconduct, neglect of duty, or malfeasance; and

(B) applies for reemployment not later than 90 days after the date of separation from the Corporation.

(2) Specific rights

An employee who satisfies paragraph (1) is entitled to be reemployed (in accordance with such paragraph) within 30 days after applying for reemployment and, on reemployment, is entitled to at least the rate of basic pay to which such employee would have been entitled had such employee never transferred.

(c) Hiring authority

Of persons employed by the Corporation, not to exceed 30 persons may be appointed, compensated, or removed without regard to the civil service laws and regulations.

(d) Basic pay

The Chief Executive Officer may fix the rate of basic pay of employees of the Corporation without regard to the provisions of chapter 51 of title 5 (relating to the classification of positions), subchapter III of chapter 53 of such title (relating to General Schedule pay rates), except that no employee of the Corporation may receive a rate of basic pay that exceeds the rate for level II of the Executive Schedule under section 5313 of such title.

(e) Definitions

In this section—

(1) the term “agency” means an executive agency, as defined by section 105 of title 5; and

(2) the term “detail” means the assignment or loan of an employee, without a change of position, from the agency by which such employee is employed to the Corporation.

(Pub. L. 108–199, div. D, title VI, § 617, Jan. 23, 2004, 118 Stat. 224.)

§ 7717. Personnel outside the United States

(a) Assignment to United States embassies

An employee of the Corporation, including an individual detailed to or contracted by the Corporation, may be assigned to a United States diplomatic mission or consular post or a United States Agency for International Development field mission.

(b) Privileges and immunities

The Secretary of State shall seek to ensure that an employee of the Corporation, including an individual detailed to or contracted by the Corporation, and the members of the family of such employee, while the employee is performing duties in any country or place outside the

United States, enjoy the privileges and immunities that are enjoyed by a member of the Foreign Service, or the family of a member of the Foreign Service, as appropriate, of comparable rank and salary of such employee, if such employee or a member of the family of such employee is not a national of or permanently resident in such country or place.

(c) Responsibility of chief of mission

An employee of the Corporation, including an individual detailed to or contracted by the Corporation, and a member of the family of such employee, shall be subject to section 3927 of this title in the same manner as United States Government employees while the employee is performing duties in any country or place outside the United States if such employee or member of the family of such employee is not a national of or permanently resident in such country or place.

(Pub. L. 108–199, div. D, title VI, § 618, Jan. 23, 2004, 118 Stat. 225.)

§ 7718. Authorization of appropriations

(a) Authorization of appropriations

There are authorized to be appropriated to carry out this chapter such sums as may be necessary for each of the fiscal years 2004 and 2005.

(b) Allocation of funds

(1) In general

The Corporation may allocate or transfer to any agency of the United States Government any of the funds available for carrying out this chapter. Such funds shall be available for obligation and expenditure for the purposes for which the funds were authorized, in accordance with authority granted in this chapter or under authority governing the activities of the United States Government agency to which such funds are allocated or transferred.

(2) Notification

The Corporation shall notify the appropriate congressional committees not less than 15 days prior to an allocation or transfer of funds pursuant to paragraph (1).

(Pub. L. 108–199, div. D, title VI, § 619, Jan. 23, 2004, 118 Stat. 225.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b)(1), was in the original “this title”, meaning title VI of Pub. L. 108–199, div. D, Jan. 23, 2004, 118 Stat. 211, which is classified generally to this chapter. For complete classification of this title to the Code, see Short Title note set out under section 7701 of this title and Tables.

CHAPTER 85—NORTH KOREAN HUMAN RIGHTS

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§ 7801. Findings

Congress makes the following findings:

(1) According to the Department of State, the Government of North Korea is “a dictatorship under the absolute rule of Kim Jong Il” that continues to commit numerous, serious human rights abuses.

(2) The Government of North Korea attempts to control all information, artistic expression, academic works, and media activity inside North Korea and strictly curtails freedom of speech and access to foreign broadcasts.

(3) The Government of North Korea subjects all its citizens to systematic, intensive political and ideological indoctrination in support of the cult of personality glorifying Kim Jong Il and the late Kim Il Sung that approaches the level of a state religion.

(4) The Government of North Korea divides its population into categories, based on perceived loyalty to the leadership, which determines access to food, employment, higher education, place of residence, medical facilities, and other resources.

(5) According to the Department of State, “[t]he [North Korean] Penal Code is [d]raconian, stipulating capital punishment and confiscation of assets for a wide variety of ‘crimes against the revolution,’ including defection, attempted defection, slander of the policies of the Party or State, listening to foreign broadcasts, writing ‘reactionary’ letters, and possessing reactionary printed matter”.

(6) The Government of North Korea executes political prisoners, opponents of the regime, some repatriated defectors, some members of underground churches, and others, sometimes at public meetings attended by workers, students, and schoolchildren.

(7) The Government of North Korea holds an estimated 200,000 political prisoners in camps that its State Security Agency manages through the use of forced labor, beatings, torture, and executions, and in which many prisoners also die from disease, starvation, and exposure.